

Message Text

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ORIGIN ERDA-07

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E.O. 11652: N/A

TAGS: TECH, FR

SUBJECT: ERDA-CEA GENERAL NUCLEAR AGREEMENT

REF: A. PARIS 20077 B. STATE 124403

1. THIS PROVIDES COMMENT ON PATENT MATTERS RAISED IN
REFTEL A. ERDA'S VIEWS ON STATUS OF NEGOTIATION OF DRAFT
AGREEMENT AND PROTOCOLS BEING DEVELOPED AND WILL BE
FORWARDED UPON COMPLETION.

2. WE CAN AGREE WITH CEA PROPOSAL REPORTED PARA 2A, REFTEL
A, TO AMEND ARTICLE 8, PARA 1, FIRST SENTENCE (REFTEL B)
TO READ: "WITH RESPECT TO ANY INVENTION OR DISCOVERY
CONCEIVED OR FIRST REDUCED TO PRACTICE IN THE COURSE OF THE
COOPERATIVE ACTIVITIES UNDERTAKEN BY THE PARTIES UNDER
THIS AGREEMENT THROUGH APPLICATION OF ITS PROTOCOL:". WE
ASSUME THAT THE ABOVE FORMULATION IS WHAT CEA HAD IN MIND.
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HOWEVER, IF CEA IS PROPOSING TO DELETE THE WORDS: "WITH

RESPECT TO ANY INVENTION OR DISCOVERY CONCEIVED OR FIRST
REDUCED TO PRACTICE," WE COULD NOT AGREE.

3. WE CAN AGREE WITH CEA PROPOSAL REPORTED PARA 2E,
REFTEL A, TO AMEND ARTICLE 8, PARA 1D (REFTEL B) TO
READ: "IN ANY CASE WHERE ONE PARTY FIRST ACTUALLY
REDUCES TO PRACTICE AFTER THE EXECUTION OF THIS AGREEMENT
AN INVENTION CONCEIVED BY THE OTHER PARTY PRIOR TO THE
EXECUTION OF THE AGREEMENT, THEN THE PARTIES SHALL
PROVIDE FOR AN APPROPRIATE DISTRIBUTION OF RIGHTS, TAKING
INTO ACCOUNT EXISTING COMMITMENTS WITH THIRD PARTIES;
PROVIDED, HOWEVER, THAT EACH PARTY SHALL DETERMINE THE
RIGHTS TO SUCH INVENTION IN ITS OWN COUNTRY."

4. WE ARE UNABLE TO AGREE WITH CEA PROPOSALS REPORTED
PARA 2B AND 2D, REFTEL A, IN THAT THESE PROPOSALS WOULD
HAVE THE EFFECT OF ATTENUATING CONCEPT OF "FIRST REDUCED
TO PRACTICE." ALTHOUGH WE UNDERSTAND CEA CONCERN OVER
SITUATION WHEREIN A CEA INVENTION PATENTED IN FRANCE IS
FIRST ACTUALLY REDUCED TO PRACTICE UNDER THE AGREEMENT,
WITH THE RESULT THAT ERDA HAS ALL RIGHT, TITLE AND
INTEREST IN THE US AND THIRD COUNTRIES, WE BELIEVE THAT
THE CLAUSE APPEARING IN ARTICLE 8, PARA 1D (REFTEL B)
PROVIDES A SOLUTION EQUITABLE TO BOTH ERDA AND CEA.

5. WITH RESPECT TO CEA PROPOSAL REPORTED PARA 2C, REFTEL
A, WE PREFER TO REVIEW LANGUAGE BEING PREPARED BY CEA
BEFORE COMMENTING FURTHER. ROBINSON

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